

## AN ORDINANCE 2006-11-02-1258

### AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE, OF THE CITY CODE OF SAN ANTONIO, TEXAS, BY AMENDING VARIOUS SECTIONS RELATING TO TREE PRESERVATION AND PROVIDING FOR PENALTIES.

\* \* \* \* \*

**WHEREAS**, the San Antonio City Council adopted the revised Unified Development Code (UDC) on May 3, 2001 and reenacted the Unified Development Code, 2005 Edition on September 22, 2005; and

**WHEREAS**, Section 35-111 requires that requests for amendments to the Unified Development Code be submitted annually to the Zoning Commission and the Planning Commission; and

**WHEREAS**, City staff have met with numerous stakeholder groups and have revised various amendments to accomplish the goals of tree preservation and balanced development;

**WHEREAS**, the City Master Plan provides that the tree preservation ordinance shall be strengthened as needed, **NOW, THEREFORE**,

#### **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** Chapter 35 of the City Code of San Antonio, Texas is hereby amended by adding language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the existing text as set forth in this Ordinance.

**SECTION 2.** Chapter 35 of the City Code of San Antonio, Texas is hereby amended as follows:

Chapter 35, Article IV, Section 35-478 is deleted in its entirety.

#### **35-478      ~~Woodlands Preservation~~**

##### **(a)      Applicability**

~~The provisions of this section apply to any application for development approval in which the applicant elects to utilize the woodlands preservation plan option as an alternative method to obtain a tree permit.~~

##### **(b)      Initiation**

~~Where the applicant elects to provide a woodlands preservation plan:~~

- (1) ~~The woodlands preservation plan shall be filed with the master development plan, if required; the application for a letter of certification for a subdivision plat; or the application for approval of a building permit if no subdivision plat or site plan is required.~~
- (2) ~~The woodlands preservation plan shall be approved prior to mitigating, removing, or destroying any tree within the designated tree stand delineation area.~~
- (3) ~~The landscape plan required by § 35-476 may be combined with the woodlands preservation plan required by this section at the discretion of the applicant. When a combined plan is submitted it shall be sufficient for satisfying the requirements of both section 35-476 and this section.~~
- (4) ~~An affidavit shall not be filed in lieu of a woodlands preservation plan.~~

**(c) ~~Completeness Review~~**

~~The woodlands preservation plan shall include the information required by Appendix "B" to this chapter. The city arborist shall review the woodlands preservation plan within fifteen (15) days.~~

**(d) ~~Decision~~**

**(1) ~~Generally~~**

~~If a woodlands preservation plan is submitted to meet the requirements of the woodlands preservation standards, it shall be reviewed by the city Arborist for compliance within twenty (20) days. If the city Arborist finds that the work described in the application for a permit and the plans and other data conform to the requirements of this section and that the fees have been paid by the applicant, the city arborist shall approve the woodlands preservation plan.~~

**(2) ~~Combined Landscaping Plan and Woodlands Preservation Plan~~**

~~If the landscaping plan and the woodlands preservation plan are combined, the department of development services official responsible for the review and approval of the landscape requirements of § 35-476 shall also review and approve those portions of the application relating to the landscaping and streetscaping standards. All items identified in the data and drawings used in combined plans shall clearly indicate whether they are to be applied to satisfy the requirements of this section or § 35-476 (landscaping), or if they are intended to satisfy the requirements of both sections.~~

**(e) ~~Type of Hearing~~**

~~The application for a tree permit shall be processed as a ministerial permit pursuant to section 35-401. A public hearing is not required.~~

**(f) Approval Criteria**

~~A woodlands preservation plan submitted for meeting the requirements of the woodlands preservation standards shall comply with those standards set forth in Section 35-524.~~

**(g) Subsequent Applications**

~~Not applicable.~~

**(h) Amendments**

~~Notification and approval of the city arborist are required if changes need to be made to an approved woodlands preservation plan. Approval of the changes must be received from the city arborist, in writing, before commencement of any work that is the subject of the change or field adjustment.~~

**(i) Scope of Approval**

~~A woodlands preservation plan shall remain valid for the period of validity of the permit or authorization that triggered the requirement for obtaining the tree permit (i.e. master development plan, building permit, plat, etc.).~~

**(j) Recording Procedures**

~~It shall be the responsibility of the permit holder to maintain a copy of the approved woodlands preservation plan, the data and drawings required by this section, and the conditions of approval imposed by the city Arborist readily available at the project site at all times during which the authorized work is in progress.~~

Chapter 35, Article IV Section 35-493 is amended as follows:

**35-493 Violations of Tree Preservation Standards**

**(a) Inside City Limits**

**(1) Violation Defined.**

It shall be a violation of this division for any person to intentionally or knowingly remove or destroy, or allow the removal or destruction of a significant or heritage tree located on any property to which this chapter applies, or for any person to knowingly or intentionally perform any regulated activity in a manner that does not conform to the requirements of this chapter. Any act or omission contrary to the requirements or directives of this chapter, or any breach of any duty imposed by this chapter shall constitute a violation hereof. In addition to enforcement by

the city arborist, this section shall be enforceable by and pursuant to the authority provided in section 35-491 of this chapter.

**(2) Penalty.**

Any person who commits a violation of this chapter shall be subject to a civil penalty of up to one thousand dollars (\$1,000.00) per violation or a criminal penalty of up to two hundred dollars (\$200.00) per violation per day and may be required to attend one or more training seminars. For ~~for~~ the purpose of calculating penalties, each day on which a violation is found to exist shall constitute a separate and sanctionable offense.

**(b) Outside City Limits**

Whenever a violation of this chapter is believed to have occurred or to be occurring outside the corporate limits of the city but within the city's ETJ, criminal penalties shall not be sought, however, enforcement against such violations is hereby authorized pursuant to and under the authority granted by V.T.C.A., Texas Local Government Code, § 212.001, et. seq.

**(c) Work Commencing Before Issuance of a Tree Permit**

Any person who commences any work requiring a Tree Permit before obtaining such permit shall be subject to a fine of \$10,000 or an additional fee equal to the fee established in Appendix C for commencing development without a Tree Permit.

Chapter 35, Section 35-523(a) (1) is amended by adding subsection E as follows:

**35-523 Tree Preservation**

\* \* \* \* \*

E. Tree Credit Certificate 001 issued February 10, 2000 and Tree Credit Certificate 002 issued March 26, 2002 are acknowledged and the express language of those certificates apply whenever and wherever until fully redeemed with no limitations as to any time vesting projects as expressed in those contracts or certificates.

\* \* \* \* \*

Chapter 35, Article V Section 35-523(d), 35-523(e), 35-523(f), and 35-523(i) are amended as follows:

**35-523 Tree Preservation**

\* \* \* \* \*

**(d) Protected Tree Designations**

The significant or heritage tree designations establish a threshold trunk size, measured in diameter at breast height ("DBH"), for various tree species for purposes of applying the requirements of this ordinance. A significant or heritage tree is defined by DBH as set forth below. Significant trees of less than six (6) inches may be omitted from the tree survey and preserved or mitigated based on a numerical count.

**(1) Significant Trees.**

A significant tree means a tree of six (6) inches or greater DBH for all tree species except the Ashe Juniper (*Juniperus ashei*), Huisache, and Mesquite are significant at ten (10) inches DBH and Arizona Ash and Hackberry are significant with at least one trunk being ten (10) inches or greater DBH and the following species are significant with at least one trunk being five (5) inches or greater DBH (the value of the five (5) inch or greater trunk is the value given to these small tree species):

~~A significant tree means a tree of six (6) inches or greater DBH for all tree species except for the following species where a significant tree means a tree with two (2) two (2) inches or greater DBH:~~

- |                                    |                                   |
|------------------------------------|-----------------------------------|
| A. <u>Texas</u> Persimmon          | F. Crabapple (in floodplain only) |
| B. <u>Texas</u> Redbud             | G. <u>Blue Wood Condalia</u>      |
| C. <u>Texas</u> Mountain Laurel    | H. <u>Brazil Tree</u>             |
| D. Condalia                        | I. <u>Downy Hawthorne</u>         |
| E. Possum Haw (in floodplain only) |                                   |

**(2) Heritage Trees.**

A heritage tree means a tree of twenty-four (24) inches or greater DBH for all tree species except the following species are heritage with at least one trunk being twelve (12) inches or greater DBH (the value of the twelve (12) inches or greater trunk is the value given to these small tree species):

~~A Heritage tree means a tree of twenty-four (24) inches or greater DBH for all tree species except for the following species where a heritage tree means a tree with with eight (8) eight (8) inches or greater DBH:~~

- |                                    |
|------------------------------------|
| A. Persimmon                       |
| B. Redbud                          |
| C. Mountain Laurel                 |
| D. Condalia                        |
| E. Possum Haw (in floodplain only) |
| F. Crabapple (in floodplain only)  |

**(3) Non-native Trees.**

Non-native invasive tree species are not protected and will be omitted from the tree survey. Non-native invasive tree species means the following tree species:

- A. Chinese Pistache (*Pistacia chinensis*)
- B. Chinaberry (*Melia azedarach*)
- C. Chinese Tallow (*Sapium sebiferum*)
- D. Tree of Heaven (*Ailanthus altissima*)
- E. Salt Cedar (*Taxus species*)

**(e) Minimum Tree Preservation Requirements**

**(1) Generally.**

Table 523-1 establishes the minimum percentage of all diameter inches or percent tree canopy of significant or heritage trees that must be preserved or mitigated. For single family dwellings, developers and builders may elect to preserve trees at the platting or permitting stage; if a developer or builder elects to preserve at the platting stage, this method must be used throughout completion of the project.

<b>Table 523-1 523-2 [Corrected]</b>		
	<b>Single-family Dwellings</b>	<b>Multi-family and Non-residential uses</b>
Significant Trees	35% within each platted lot, excluding street right of way and easements. Plus each builder on a single family dwelling lot shall also be required to plant two, 2" caliper new trees, which trees shall generally be native, large canopy trees.	40% within the entire site excluding the street rights-of-way and easements
Significant Trees under 6" DBH	35% within each planted lot, excluding the street right of way and easements or 35% of the number of total count of all such trees.	40% within the entire site, excluding street right of way and easements; or 40% of the number of total count of all such trees; <u>or for athletic fields, 25% of the entire site to be developed as such.</u>
Heritage Trees	100% within each platted lot	100% within the entire site.
100 year flood plain(s)	80% of all the trees within the flood plain, which shall not apply toward preservation requirements on the remainder of the lot.	80% of the trees within the flood plain, which shall not apply toward preservation requirements on the remainder of the site.
Mitigation Maximum	Up to 90% of Significant and Heritage trees may be mitigated rather than preserved.	Up to 90% of significant and Heritage trees may be mitigated rather than preserved.

**(2) Calculation of Preservation Ratios.**

All percentages relating to preservation stated within this section shall be based on the initial tree survey. Any subsequent redevelopment of property must minimally preserve the applicable percentage of the total diameter inches of protected trees as indicated by the initial tree survey.

**(3) Tree Stand Delineation Alternative.**

**A. Standards**

As an alternative to a tree survey, a tree stand delineation (no heritage tree survey is required) may be used to meet the preservation requirements (see submittal

requirements Section 35-B125). In order to utilize this provision the site must have area(s) of tree canopy that meet the woodlands criteria as set forth in Appendix A and must contain existing native understory vegetation. The application of this provision will be based on the gross tree canopy of a site or project outside the 100 year floodplain, with no exclusions for rights-of-way or easements. A tree stand delineation shall meet the following standards:

- A tree preservation plan submitted at the Master Development Plan stage must preserve a minimum of 30% of contiguous tree canopy with the understory.
- If the tree preservation plan is delayed until Subdivision Review or any subsequent stages of development, the preservation requirement is 35% of contiguous canopy with understory vegetation.
- Tree Save areas will be a minimum of 20,000 square feet with any dimension being not less than 35 feet.
- Tree Save areas must be designated as such when the area is platted.
- Tree canopy area(s) to be preserved as Tree Save area(s) must include environmentally sensitive areas if such are present on site; including steep slopes, drainage areas, aquifer recharge features, riparian buffers and corridors along arterial and collector streets.
- The 100 year floodplain areas within the project are to be preserved at 80% for significant trees and 100% for heritage trees. The trees or tree canopy in the floodplain may not be used to meet preservation requirements set forth above for the developable portion of the land.
- The minimum requirements must be met without mitigation to utilize this option.

B. Subsequent Removal

- Removal of the Tree Save area or any portion thereof will require the applicant to reforest to the required preservation amount.

Mitigation trees will be as set forth in the standards of Table 523-2 using the shade value in Appendix E.

\* \* \* \* \*

**(f) Mitigation/Alternative Mitigation Methods**

Significant or heritage trees may be removed in excess of the minimum preservation requirement contained in subsection (e) provided the excess removal is properly mitigated. -If mitigation is required to compensate for removing trees in excess of the number of diameter inches allowed to be removed within the surveyed area to be calculated for tree preservation under the minimum preservation requirements, the mitigation may be achieved in one of the ways prescribed in Table 523-2 523-3 [Corrected], below:



<b>Table 523-2 523-3 [Corrected]</b> <b>Mitigation</b>		
<b>(A) Method</b>	<b>(B) Description</b>	<b>(C) Restrictions</b>
1. Establishment and maintenance of new trees at the required ratio on-site	Significant 1:1 Heritage 3:1 <u>All short lived tree species of Ash (all Fraxinus species) and Hackberry (all Celtis species) Huisache, Ashe Juniper and Mesquite will be mitigated at 1:1.</u>	No more than twenty-five (25) percent of the replacement trees shall be of the same species; for the purposes of mitigation <del>Heritage designation does not apply to Ashe Juniper.</del> <u>Replacement trees must be at least 3" in diameter.</u>
2. Payment to the tree mitigation fund	See subsection (n) of this Section.	See subsection (n) of this Section.
3. Protection and Maintenance of smaller trees within Surveyed Area	Protection and maintenance of existing trees within the surveyed area that are smaller than the size requirements for a protected tree.	Such trees must be at least two and one-half (2 ½) inches DBH. See column B ratios for diameter-inches required.
4. <u>Protection and Maintenance of natural areas within the Surveyed Area</u>	Protection and maintenance of existing natural areas, i.e., prairie, steep slope, etc.	Area(s) must contain desirable plants as determined by the city Arborist and/or by Texas Parks and Wildlife Dept.

In considering a mitigation method, the city arborist may weigh the value of smaller trees, clumps of trees, and natural vegetation that could be retained to meet the requirements of this section, such as mitigation method above, or the amount of vegetation to be retained on the site and/or added according to a landscape plan to determine the extent additional trees may not be required. For these reasons, indiscriminate clearing of smaller trees and shrubs or understory is discouraged. Small tree species shall be mitigated based on the one trunk that is five (5) inches or greater for significant status and the one trunk that is twelve (12) inches or greater for heritage status. Small tree species that achieve heritage status shall be mitigated on a 1:1 basis.

\* \* \* \* \*

**(i) Root Protection Zone**

**(1) Root Protection Zone.**

A root protection zone must be established around the trunk of each tree preserved or mitigation tree. For multi-family and non-residential construction the root protection zone shall be an area defined by an average radius extending outward from the trunk of the tree a distance of one (1) linear foot for each inch (DBH). ~~A minimum of 50% of the~~ The root protection zone area shall be preserved at natural grade, with natural groundcover. No cutting, filling, trenching, root disturbance, soil disturbance, or construction impacts shall occur closer to the trunk than one-half (1/2) the root protection zone radius except in parking areas where approved alternative materials and methods are used, construction may be as close as five (5) feet from the root flares on one side of the tree. Filling shall be allowed to accomplish water conservation goals established by the city of San Antonio or by a public utility. Native understory vegetation within the root protection zone shall be preserved, however this requirement does not apply to root protection zone areas that have been landscaped using native, drought tolerant plants. The root protection zone may be shifted and clustered as long as there is no construction closer to the trunk than one-half (1/20 the root protection zone radius. The construction of sidewalks shall be allowed in the root protection zone, as long as excavation does not exceed three (3) inches.

The area contained within a root protection zone required under this subsection must be left in a pervious condition after construction and development are completed unless approved alternative construction methods are used. The arborist shall establish a written set of technical criteria on which such approval shall be based. These This criteria will be updated at least every five (5) years with the assistance of a committee consisting of, at a minimum, the City Arborist, the Regional Urban Forester from the Texas Forest Service, a landscape architect and an engineer. During construction activity on the site, at least a six-inch layer of a coarse mulch shall be placed and maintained over the root protection zone. The impervious cover may encroach within the root protection zone if said encroachment is approved by the city arborist.

\* \* \* \* \*

Chapter 35, Article V, Section 35-523 is amended by adding Section 35-523(p) as follows:

(p) Tree Canopy Investment Fund

(1) Fund Established.

The director of finance is hereby directed to establish a dedicated account to be entitled Tree Canopy Investment Fund.

(2) Tree Canopy Investment Fund Fees.

(i.) A fee of \$15.00 per lot shall be assessed for each residentially platted lot or for each residential building permit issued.

(ii) A fee of \$25.00 per acre or portion thereof shall be assessed for each commercially platted lot or a fee of \$25.00 per acre for each lot for which a commercial building permit is issued by the development services department.

(iii) Fees collected pursuant to the Tree Canopy Investment Fund shall be assessed at the time a Tree Permit is issued and recorded in the fund created pursuant to this section, unless expressly prohibited by law.

(3) Use of Funds.

The funds collected shall be utilized to pay for the planting and maintenance of trees to proactively enhance the City's Tree Canopy area. The program is to be administered by the development services department. The development services director shall seek the advice of the City Forester in regard to the selection of projects to be funded.

(4) Funds to Be Kept Separate.

The balance within the fund shall be recorded and accounted for in a manner that distinguishes them from other general funds of the city and shall be disbursed in a manner consistent with the purposes for which this fund has been established. The balance of this fund shall not be transferred to the general fund at the end of each budget year, but rather, the balance remaining in the fund at the close of the city's fiscal year shall roll over into the balance for the next fiscal year.

Chapter 35, Article V Section 35-524 is deleted in its entirety.

**35-524      ~~Woodlands Preservation Standards~~**

~~The purpose of this section is to encourage contiguous stands of trees. The city hereby finds and determines that preserving contiguous stands of trees provides significant benefits exceeding the preservation of individual trees, including:~~

- ~~• Increased survivability rates.~~
- ~~• More effective stormwater management.~~
- ~~• More effective protection of air quality.~~
- ~~• Preservation of biodiversity and a variety of plant species, including understory.~~

~~This section establishes a minimum size for tree stands in order to ensure that they perform a significant biological function and to provide certainty in the approval process.~~

~~The city also finds and determines that delineating tree stands early in the process provides an economic advantage to the applicant. By designating trees early in the approval process, site infrastructure and lots can be planned around trees. By contrast, providing a tree survey late in the approval process, as is permitted by § 35-523, can involve unanticipated expenses and delay that could be resolved by early coordination with the city. Accordingly, this Section provides an optional process whereby applicants are encouraged to delineate woodlands early in the approval process, and are thereby excused from the individual tree surveys and construction measures required by § 35-523.~~

~~This Section implements the following provisions of the master plan:~~

~~Neighborhoods Element of the master plan, Policy 3c: Continue to implement the tree preservation ordinance and strengthen as needed.~~

**(a) Applicability**

The provisions of this section provide an alternate method of approval to Section 35-523 and apply to any application for development approval subject to an approved stand delineation, as described in Subsection (d), below, and Appendix "B" to this code. If stand delineation is approved as provided herein, the tree protection requirements of Section 35-523, above, shall not apply, provided however, heritage trees shall be protected as provided in Section 35-523 notwithstanding approval of a stand delineation.

**(b) Administration**

See Section 35-478 of this chapter.

**(c) Violation, Enforcement and Penalties**

See Section 35-493 of this chapter.

**(d) Stand Delineation**

~~The stand delineation shall be used during the preliminary review process to determine the most suitable and practical areas for woodland conservation. A stand delineation as provided by this section shall not substitute for the delineation of protected trees if there is no woodland on the site. See Section 35-478 for stand delineation approval procedures, and Appendix "B", Section 35-B125 for stand delineation submittal requirements.~~

**(e) Preservation Ratios**

**(1)** The following preservation ratios are established for purposes of this section:

Proposed Land Use	Preservation Ratio
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Single-Family Residential, not more than two (2) dwelling units per acre	25%
Single-Family Residential, greater than two (2) dwelling units per acre	20%
Multi-family and Non-residential uses	15%

- (2) The applicant shall comply with the preservation ratio by using one (1) of the following alternatives:
- A. Preserving an area of continuous canopy coverage equal to the Net Area of the site multiplied by the applicable preservation ratio. Such areas shall be designated as "tree save areas."
  - B. Providing reforestation as prescribed in subsection (f), below.
- (3) The following areas shall be considered priority for retention and protection, and shall be included in the tree save area:
- A. Trees, shrubs, and plants located in sensitive areas including 100-year floodplains, streamside management zones, steep slopes, and critical wildlife habitat;
  - B. Contiguous woodland that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site;
  - C. Trees, shrubs, or plants identified on the list of rare, threatened, and endangered species of the U.S. Fish and Wildlife Service or Texas Parks and Wildlife Department;
  - D. Trees that are part of a historic site or associated with a historic structure or designated by the Texas Forest Service on the Texas Big Tree Registry; and
  - E. Trees having a diameter measured at 4.5 feet above the ground of 30 inches or 75% of the diameter of the current National Champion Tree of that species as listed on the Texas Big Tree Registry maintained by the Texas Forest Service.
- (4) The applicant may include up to fifty percent (50%) of areas designated as natural areas, greenways, or greenbelts pursuant to the parks and open space standards (§ 35-503 of this chapter) within the tree save area. Such areas shall conform to the requirements of this section.

**(f) Mitigation Ratios**

- (1) ~~Reforestation where used pursuant to Subsection (e)(2) shall conform to the following:~~

Area Removed	Reforestation Ratio (percentage of acreage removed)
Less than the Tree Save Area	25%
At or more than the Tree Save Area	200%

*[Commentary: An applicant proposing a single-family development with six (6) dwelling units per acre has a 100-acre site with 40 acres of Woodlands. The mitigation ratio is as follows:*

*Tree Save Area (TSA) ———— =  $100 \times 20\% = 20$  acres  
Below TSA ————— =  $20 \text{ acres} \times 25\% = 5$  acres, plus  
At or above TSA ————— =  $20 \text{ acres} \times 200\% = 40$  acres  
total Reforestation required =  $40 + 5 = 45$  acres]*

- (2) ~~Each acre of woodland retained on the net tract area above the applicable preservation ratio shall be credited against the total number of acres required to be reforested under subsection (1) of this subsection.~~
- (3) ~~The reforestation requirements under this section shall be accomplished within 1 year or 2 growing seasons after completion of the development project.~~
- (4) ~~Reforestation shall occur on-site except where:~~
- ~~A. ——— off-site reforestation occurs within the same watershed or in accordance with a master plan where the applicant has demonstrated that no reasonable on-site alternative exists, or;~~
  - ~~B. ——— Any on-site priority areas for reforestation have been planted in accordance with subsection (1) of this section; or~~
  - ~~C. ——— The city has, by ordinance, designated woodland mitigation banks.~~
- (5) ~~The following shall be considered priority for forestation or reforestation:~~
- ~~A. ——— Establish or enhance woodlands as buffers within streamside management zones;~~
  - ~~B. ——— Establish or increase existing woodland corridors to connect existing woodlands within or adjacent to the site. Where practical, woodland corridors should be a minimum of 300 feet in width in order to facilitate wildlife movement;~~

- ~~C. Establish or enhance woodland buffers adjacent to critical wildlife habitat zones where appropriate;~~
- ~~D. Establish or enhance woodlands in 100-year floodplains;~~
- ~~E. Establish plantings to stabilize slopes of 25% or greater and slopes of 15% or greater which include the following soils as described in the Soils Survey: Austin Silty Clay, bracket clay loam, Brackett-Austin complex (Austin only), Gullied land, Houston clay, Houston-Sumter clays, Houston Black clay, Houston Black gravelly clay, San Antonio clay loam, Venus loam, Venus clay loam, Webb fine sandy loam, or Webb soils. Such areas may include the slopes of ravines or other natural depressions;~~
- ~~F. Establish buffers adjacent to areas of differing land use where appropriate, or adjacent to highways or utility rights of way;~~
- ~~G. Establish woodlands adjacent to existing Woodlands so as to increase the overall area of contiguous woodland, when appropriate; and~~

**~~(g) Tree Protection During Construction~~**

~~Woodlands within tree save areas shall be protected as follows.~~

- ~~(1) A protective barrier must be erected around the perimeter of each tree save area to be preserved and maintained until construction is completed.~~
- ~~(2) During construction, no excess soil, additional fill, equipment, liquids, or construction debris shall be placed inside the protective barrier nor shall any soil be removed from within the barrier.~~
- ~~(3) The proposed finished grade and elevation of land within six (6) feet of a tree save area to be preserved shall not be raised or lowered more than three (3) inches unless compensated for by welling or retaining methods.~~

**~~(h) Street and Utility Crossings~~**

~~In order to permit limited crossings of the tree stand by roads and utilities in order to provide site access and to avoid creating a disincentive to using the tree stand delineation procedure, the following standards shall apply:~~

- ~~(1) Streets shall conform to the design standards for an "access to conservation subdivision," as prescribed in the transportation standards of this chapter. The street right-of-way shall not exceed thirty-four (34) feet, and the pavement width shall not exceed twenty-four (24) feet.~~

- (2) ~~Streets and utilities shall be located within the same right of way. Utilities shall not cross a woodland subject to a stand delineation outside of the street right of way.~~
- (3) ~~streets shall cross in a manner to minimize impact to trees and natural areas.~~
- (4) ~~streets shall not be located on soils subject to erosion.~~

Chapter 35, Appendix A is amended as follows:

\* \* \* \* \*

### **Athletic field**

Within the context of section 35-523 athletic field means an on-site sports playing field used primarily for organized sports for public or private schools or for use as a sports playing field off-site for a public or private school in association with youth sports.

\* \* \* \* \*

### **City arborist**

An individual employed by the city who is responsible for the administration and overseeing of the tree preservation standards ~~and woodland preservation standards~~. The individual shall have appropriate educational experience, credentials and work experience as well as practical experience that qualify the individual for performance of his or her necessary responsibilities.

\* \* \* \* \*

### **Multi-trunk tree**

A tree having two (2) or more main trunks arising from the root collar or from the main trunk and measured for DBH by adding the entire DBH of the largest trunk to the sum of the remaining trunks at one half of their DBH. Where no trunk is greater than one (1) inch DBH, the tree will not be protected regardless of the sum of the DBH inches of trunks calculated by the above method.

\* \* \* \* \*

### **Net area**

A. ~~Within the context of the woodlands preservation standards, net area means: (1) in non-linear project areas, the total area of a site less that area where tree removal is restricted by another local ordinance or program, including but not limited to, the area of special flood hazard and wetlands; or (2) for a linear project area, the area of a right of way width, new access roads and storage. Parks and open space may be included in the Net Area where permitted by the woodland preservation standards.~~



~~B. Within the context of a master development plan, net~~ Net area shall mean total acreage within a master development plan less the area within the 100-year floodplain and the area dedicated to conservation easement, natural area (such as greenbelt) and parks.

\* \* \* \* \*

### **Small Scale Development**

Small Scale Development shall mean commercial development of two (2) acres or less, or residential development of ten (10) lots or less.

\* \* \* \* \*

### **Tree permit**

An authorization by the city arborist authorizing specific work as it relates to compliance with the tree preservation standards ~~or woodland preservation standards.~~

\* \* \* \* \*

### **Tree save area**

An area left undisturbed in its natural condition pursuant to the tree preservation/tree stand delineation option ~~woodland preservation standards.~~

\* \* \* \* \*

### **Woodland**

For use within sections 35-523 (e)(3)(i) and 35-523 (e)(3)(ii) an ~~An~~ area of contiguous wooded vegetation where trees are at a density of at least one significant six-inch or greater caliper tree per 325 square feet of land and where the branches and leaves form a continuous canopy. ~~For purposes of submitting a master site plan, a~~ A woodland shall include areas with a continuous canopy of trees over an area of at least twenty thousand (20,000) square feet and with any dimension being not less than 35 feet. A woodland may be delineated through an aerial photograph or a ground survey. A woodland shall include both understory and protected trees.

### **Woodland conservation**

~~The retention of existing Woodlands at the levels prescribed by § 35-524, where the city arborist has approved a Stand Delineation.~~

### **Woodland preservation standards**

~~See Section 35-524 of this chapter.~~

\* \* \* \* \*

### **Woodland stand delineation**

~~The methodology for evaluating the existing vegetation on a site proposed for development, taking into account the environmental elements that shape or influence the structure or makeup~~

~~of a plant community. The procedures and requirements for a Stand Delineation are defined in § 35-523 and Appendix B to this Code.~~

### **Woodlands tree save area**

~~Any area designated for the purpose of preserving a significant stand of trees, as provided in the woodlands preservation standards or the area identified to be saved through the use of the tree stand delineation process as an alternative to an “on-the-ground” tree survey and inventory with calculations.~~

\* \* \* \* \*

Chapter 35, Appendix B, Section 35-B126 is deleted in its entirety.

### **~~35-B126 Tree Permit-Woodlands Preservation Plan Option~~**

#### **(a) Number of Copies**

~~The applicant shall submit a tree preservation/affidavit application with three (3) sets of plans, surveys and/or drawings as provided herein.~~

#### **(b) Format**

~~A woodlands stand delineation shall be prepared in accordance with 35-478 by a landscape architect or certified arborist. The information provided herein may be derived from aerial photographs, topographic plans, or on-site surveys at the discretion of the applicant. The information shall be presented at a scale of one (1) inch equals four hundred (400) feet (1"=400').~~

#### **(c) Contents**

~~The woodlands stand delineation shall contain the following components:~~

- ~~(1) A topographic or aerial map delineating intermittent and perennial streams, and steep slopes; and~~
- ~~(2) The boundaries and a description of the species associations based upon the “Checklist of the Vascular Plants of Texas”, version 2001, published by Texas A&M University, including species composition, stocking density, diameter distribution (if available), age class, and condition at the stand level; and~~
- ~~(3) A computation of the amount of land covered by tree canopy, in acres; and~~
- ~~(4) An estimate of the number of trees per acre; and~~
- ~~(5) A map delineating critical wildlife habitat; and~~

- (6) ~~A map delineating streamside management zones; and~~
- (7) ~~Forest stand maps indicating species, location, and size of trees and showing dominant and co-dominant forest types.~~
- (8) ~~A map of the site drawn at the same scale as the grading or subdivision plan;~~
- (9) ~~A table listing the net area in square feet, the square foot area of woodlands conservation required for the site, and the square foot area of woodlands conservation provided by the applicant on site and off site, if applicable;~~
- (10) ~~A clear graphic indication of the woodlands conservation provided on the site showing areas where both retention of existing woodland, by any and all methods, is planned;~~
- (11) ~~An anticipated construction timetable, including the sequence for tree conservation procedures;~~
- (12) ~~A reforestation plan with a timetable and description of needed site and soil preparation, species, size, and spacing to be utilized;~~
- (13) ~~Locations and types of protective devices to be used during construction activities to protect areas of woodland designated for conservation;~~
- (14) ~~Limits of disturbance delineated;~~
- (15) ~~Stockpile areas delineated; and~~
- (16) ~~A binding 2-year management agreement that details how the areas designated for forestation or reforestation will be maintained to ensure protection or satisfactory establishment including:~~
  - A. ~~Watering; and~~
  - B. ~~Reinforcement planting provisions if survival falls below required~~

Chapter 35, Appendix C, Sections 35-C110 is amended as follows:

### **35-C110 Tree Preservation and Woodland Preservation Fees**

The following fees are established for purposes of issuing permits or taking related actions for purposes of the tree preservation standards ~~and the woodland preservation standards~~. All fees shall be paid prior to issuance or certification of the action taken, and shall be earmarked as provided in § 35-C101, above.

#### **Basic Fees**

	Residential	Commercial
--	-------------	------------

Tree Permit	\$ 35/Lot \$ 2,000 Maximum	\$ 75/Acre
Affidavit Option 1 No Protected Trees	\$ 35/Lot \$ 1,000 Maximum	\$ 75/Acre \$ 2,000 Maximum
Woodland Stand Permit	\$ 75/Acre \$ 2,000 Maximum	\$ 75/Acre \$ 2,000 Maximum
Plan Review Fee	\$ 75	\$ 75

### Miscellaneous Fees

Tree Certification Credit	\$ 100/project & \$1/inch (Tree Mitigation Fund)
Tree Mitigation	\$ 100/inch <u>Significant Trees</u> (Tree Mitigation Fund) \$300/inch <u>Heritage Trees</u> (Tree Mitigation Fund)
Tree Maintenance License	\$ 150/Three Years (Four Hours Continuing Education)
Commencing Development without a Tree Permit-Residential	\$ 70/Lot \$ 2,000 Maximum per Development
Commencing Development without a Tree Permit-Commercial	\$ 150/Acre
Commencing Development without a Tree Permit-Small Scale Development	\$3,000 for commercial development of two (2) acres or less and residential development of ten (10) lots or less

\* \* \* \* \*

**SECTION 3.** All other provisions of Chapter 35 of the City Code of San Antonio, Texas shall remain in full force and effect unless expressly amended by this ordinance.

**SECTION 4.** Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

**SECTION 5.** The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

**SECTION 6.** This ordinance shall become effective November 12, 2006.

**PASSED AND APPROVED this the 2nd day of November, 2006.**

  
M A Y O R

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
City Attorney

# Agenda Voting Results

**Name:** 6. Amendment as presented by CM Perez

**Date:** 11/02/06

**Time:** 08:12:16 PM

**Vote Type:** Multiple selection

**Description:**

*(3rd item)*

*To Create Tree Canopy  
Investment Fund*

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5			x	
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR		x		

# Agenda Voting Results

**Name:** 6. Amendment 7A

**Date:** 11/02/06

**Time:** 08:11:12 PM

**Vote Type:** Multiple selection

**Description:**

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5			x	
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7			x	
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR			x	

# Agenda Voting Results

**Name:** 6. Amendment 6

**Date:** 11/02/06

**Time:** 08:10:43 PM

**Vote Type:** Multiple selection

**Description:**

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5			x	
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7			x	
ART A. HALL	DISTRICT 8			x	
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR			x	

# Agenda Voting Results

Name: 6. Amendment as presented by CM Perez  
(2nd item)

Date: 11/02/06

Time: 08:10:16 PM

Vote Type: Multiple selection

Description:

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5			x	
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7			x	
ART A. HALL	DISTRICT 8			x	
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR			x	



# Agenda Voting Results

**Name:** 6. Amendment 5

**Date:** 11/02/06

**Time:** 08:08:26 PM

**Vote Type:** Multiple selection

**Description:**

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5			x	
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7			x	
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR			x	

# Agenda Voting Results

**Name:** 6. Amendment 4

**Date:** 11/02/06

**Time:** 08:07:52 PM

**Vote Type:** Multiple selection

**Description:**

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5			x	
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7			x	
ART A. HALL	DISTRICT 8			x	
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR			x	

# Agenda Voting Results

**Name:** 6. Amendment as presented by CM Perez

**Date:** 11/02/06

**Time:** 08:07:16 PM *(1st election)*

**Vote Type:** Multiple selection

**Description:**

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5			x	
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7			x	
ART A. HALL	DISTRICT 8	Not present			
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR			x	

# Agenda Voting Results

**Name:** 6. Amendment 3

**Date:** 11/02/06

**Time:** 08:05:05 PM

**Vote Type:** Multiple selection

**Description:**

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8	Not present			
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR		x		

# Agenda Voting Results

**Name:** 6. Amendment as presented by CM Haass

*(Steffi Amend 3)*

**Date:** 11/02/06

**Time:** 08:04:36 PM

**Vote Type:** Multiple selection

**Description:**

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7			x	
ART A. HALL	DISTRICT 8	Not present			
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR		x		

# Agenda Voting Results

**Name:** 6. Amendment 2

**Date:** 11/02/06

**Time:** 08:02:37 PM

**Vote Type:** Multiple selection

**Description:**

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8	Not present			
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR		x		

# Agenda Voting Results

**Name:** 6. Amendment 1

**Date:** 11/02/06

**Time:** 08:02:04 PM

**Vote Type:** Multiple selection

**Description:**

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5			x	
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7			x	
ART A. HALL	DISTRICT 8	Not present			
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10		x		
MAYOR PHIL HARDBERGER	MAYOR		x		

# Agenda Voting Results

**Name:** 6. Motion to continue

**Date:** 11/02/06

**Time:** 07:19:50 PM

**Vote Type:** Multiple selection

**Description:**

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1			x	
SHEILA D. MCNEIL	DISTRICT 2			x	
ROLAND GUTIERREZ	DISTRICT 3			x	
RICHARD PEREZ	DISTRICT 4			x	
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6			x	
ELENA K. GUAJARDO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9			x	
CHIP HAASS	DISTRICT_10			x	
MAYOR PHIL HARDBERGER	MAYOR		x		